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ATTORNEY GENERAL

April 23, 1975

Honorable Morris Farr  
Arizona State Senate  
State Capitol  
Phoenix, Arizona 85007

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**ARIZONA ATTORNEY GENERAL**

Dear Senator Farr:

This letter is written in response to your inquiry whether Senate Bill 1146 would, if enacted, supercede Arizona laws prohibiting ex-felons from obtaining occupational licenses.

Senate Bill 1146, introduced February 10, 1975, amended A.R.S. Section 13-1741 through 1974, and 1745, and A.R.S. Section 13-1751 through 13-1753 and repeals A.R.S. Section 13-1754. The legislation alters the statutory scheme for the restoration of civil rights for ex-felons who have received an absolute discharge of their sentence. Currently, the above named sections provide that a person receiving an absolute discharge (dismissal or completion of sentence) may petition the sentencing court for restoration of their civil rights. The restoration of the individual's civil rights is within the discretion of the sentencing court, (See A.R.S. Section 13-1754).

The effect of Senate Bill 1146 is to make the restoration of an individual's civil rights, upon dismissal or completion of sentence imposed, mandatory rather than discretionary.

Title 32 of the Arizona Revised Statutes, Section 101 through 2635 as amended, regulates licensing procedures for professions and occupations. In all such licensed occupations, conviction of a felony (and in some instances conviction of a misdemeanor involving moral turpitude), is a bar to the issuance of a license.

The question raised by Senate Bill 1146 is whether the restoration of civil rights to an ex-felon would supercede the statutes that bar the issuance of an occupational license to a person convicted of a felony.

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The answer to the question must be in the negative, that mandatory restoration of civil rights to an ex-felon would not prohibit the denial of an occupational or professional license to such a person.

To the extent that the current restoration of civil rights statutes do not allow an ex-felon to obtain a professional license, the proposed senate bill making restoration of civil rights mandatory would have no effect on the issue of licensing an ex-felon. In addition, the statute dealing with restoration of civil rights can arguably be construed as a general statute dealing with a class of people. The statutes prohibiting the licensing of an individual convicted of a felony are specific in nature. Therefore, on the basis of statutory construction that a specific statute will control over a general statute, the licensing statutes would appear to be controlling. See Shirley v. Superior Court, 109 Ariz. 510, 513, P.2d 939 (1973).

Courts will always look to the legislative intent in construing a statute. The Legislature may express its intent by including a savings clause in Senate Bill 1146, specifying that the provisions of the bill do not apply to licensed occupations and professions. This is the approach taken by North Dakota. A copy of that legislation, effective July 1, 1975, is attached for your reading.

Sincerely,



Bruce E. Babbitt  
Attorney General

BEB:cl  
Enclosure